

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Electronic Fund Transfer Act is amended by
5 changing Section 10 and by adding Section 46 as follows:

6 (205 ILCS 616/10)

7 Sec. 10. Definitions. For purposes of this Act, the words
8 and phrases defined in this Section shall have the meanings
9 ascribed to them unless the context requires otherwise.
10 Whenever the terms "network" and "switch" are used, they shall
11 be deemed interchangeable unless, from the context and facts,
12 the intention is plain to apply only to one type of entity.

13 "Access device" means a card, code, or other means of
14 access to an account, or any combination thereof, that may be
15 used by a customer to initiate an electronic fund transfer at a
16 terminal.

17 "Account" means a demand deposit, savings deposit, share,
18 member, or other customer asset account held by a financial
19 institution.

20 An "affiliate" of, or a person "affiliated" with, a
21 specified person, means a person that directly, or indirectly
22 through one or more intermediaries, controls, is controlled by,
23 or is under common control with, the person specified.

1 "Commissioner" means the Secretary of Financial and
2 Professional Regulation or a person authorized by the
3 Secretary, the Division of Banking Act, or this Act to act in
4 the Secretary's stead.

5 "Division" means the Division of Banking within the
6 Department of Financial and Professional Regulation.

7 "Electronic fund transfer" means a transfer of funds, other
8 than a transaction originated by check, draft, or similar paper
9 instrument, that is initiated through a terminal for the
10 purpose of ordering, instructing, or authorizing a financial
11 institution to debit or credit an account.

12 "Financial institution" means a bank established under the
13 laws of this or any other state or established under the laws
14 of the United States, a savings and loan association or savings
15 bank established under the laws of this or any other state or
16 established under the laws of the United States, a credit union
17 established under the laws of this or any other state or
18 established under the laws of the United States, or a licensee
19 under the Consumer Installment Loan Act or the Sales Finance
20 Agency Act.

21 "General use reloadable card" means a card, code, or other
22 access device that is:

23 (1) issued on a prepaid basis primarily for personal,
24 family, or household purposes to a consumer in a specified
25 amount in exchange for payment;

26 (2) issued under an agreement containing terms and

1 conditions that permit funds to be added to the card, code,
2 or other device after the initial purchase or issuance,
3 including a temporary non-reloadable card issued solely in
4 connection with a general use reloadable card, code, or
5 other device;

6 (3) not marketed or labeled as a gift card or gift
7 certificate; and

8 (4) redeemable upon presentation at multiple,
9 unaffiliated merchants for goods or services or usable at
10 automated teller machines.

11 "Interchange transaction" means an electronic fund
12 transfer that results in exchange of data and settlement of
13 funds between 2 or more unaffiliated financial institutions.

14 "Issuer" means a person that issues a general use
15 reloadable card or that person's agent with respect to the
16 card.

17 "Marketed or labeled as a gift card or gift certificate"
18 means directly or indirectly offering, advertising, or
19 otherwise suggesting the potential use of a card, code, or
20 other device as a gift for another person.

21 "Network" means an electronic information communication
22 and processing system that processes interchange transactions.

23 "Person" means a natural person, corporation, unit of
24 government or governmental subdivision or agency, trust,
25 estate, partnership, cooperative, or association.

26 "Seller of goods and services" means a business entity

1 other than a financial institution.

2 "Switch" means an electronic information and communication
3 processing facility that processes interchange transactions on
4 behalf of a network. This term does not include an electronic
5 information and communication processing company (1) that is
6 owned by a bank holding company or an affiliate of a bank
7 holding company and used solely for transmissions among
8 affiliates of the bank holding company or (2) to the extent
9 that the facility, by virtue of a contractual relationship, is
10 used solely for transmissions among affiliates of a bank
11 holding company, regardless of whether the facility is an
12 affiliate of the bank holding company or operates as a switch
13 with respect to one or more networks under an independent
14 contractual relationship.

15 "Terminal" means an electronic device through which a
16 consumer may initiate an interchange transaction. This term
17 does not include (1) a telephone, (2) an electronic device
18 located in a personal residence, (3) a personal computer or
19 other electronic device used primarily for personal, family, or
20 household purposes, (4) an electronic device owned or operated
21 by a seller of goods and services unless the device is
22 connected either directly or indirectly to a financial
23 institution and is operated in a manner that provides access to
24 an account by means of a personal and confidential code or
25 other security mechanism (other than signature), (5) an
26 electronic device that is not accessible to persons other than

1 employees of a financial institution or affiliate of a
2 financial institution, or (6) an electronic device that is
3 established by a financial institution on a proprietary basis
4 that is identified as such and that cannot be accessed by
5 customers of other financial institutions. The Commissioner
6 may issue a written rule that excludes additional electronic
7 devices from the definition of the term "terminal".

8 (Source: P.A. 96-1365, eff. 7-28-10.)

9 (205 ILCS 616/46 new)

10 Sec. 46. Disclosure requirements for general use
11 reloadable cards.

12 (a) The issuer of a general use reloadable card shall make
13 the disclosures required under this Section in accordance with
14 the following standards:

15 (1) The disclosures shall be clear and conspicuous. The
16 disclosures may contain commonly accepted or readily
17 understandable abbreviations or symbols.

18 (2) The disclosures required under items (1), (2), and
19 (3) of subsection (b) of this Section shall be provided to
20 the consumer in written or electronic form. When cards are
21 sold online, the disclosures required by item (1) of
22 subsection (b) of this Section must be clearly and
23 conspicuously accessible on the issuer's Internet website
24 prior to purchase.

25 (3) For joint accounts, only one set of the required

1 disclosures shall be provided and may be given to any of
2 the account holders.

3 (4) Issuers may design their own disclosure format,
4 provided that all fees required to be disclosed under
5 subsection (b) of this Section are included, the amount of
6 each fee is disclosed along with the frequency at which
7 each fee may be assessed, and the substance and clarity of
8 the disclosures are not affected.

9 (b) The issuer must make the following disclosures:

10 (1) Before a general use reloadable card is purchased,
11 the issuer shall disclose to the consumer the amount of
12 any:

13 (A) card purchase fee;

14 (B) monthly maintenance fee;

15 (C) cash withdrawal fee at an ATM and cash advance
16 fee at retail locations;

17 (D) reload fee; and

18 (E) balance inquiry fee, unless disclosure of the
19 balance is available to the consumer without cost via
20 telephone or Internet access.

21 The disclosures required in this item (1) must be made
22 on the portion of the card packaging accessible to the
23 consumer prior to purchase for all cards sold at retail
24 locations.

25 (2) The issuer shall include the following disclosures
26 on the card:

1 (A) the expiration date of the card, if any; and

2 (B) a toll-free telephone number and, if one is
3 maintained, an Internet website that a consumer may use
4 to obtain information about fees and to obtain a
5 replacement card after the card expires if the
6 underlying funds may be available thereafter.

7 (3) The issuer shall disclose with the card the amount
8 of each type of fee not disclosed in item (1) of this
9 subsection (b) that may be imposed in connection with the
10 card after purchase (or, if variable, an explanation of how
11 the fee shall be determined) and the conditions under which
12 the fee may be imposed.

13 (c) A card, code, or other access device is not a general
14 use reloadable card merely because the issuer or processor is
15 technically able to add functionality that would otherwise
16 enable the card, code, or other access device to be reloaded.

17 (d) Compliance with the federal Electronic Fund Transfer
18 Act and any regulations issued under that Act regarding general
19 use reloadable card disclosures shall constitute compliance
20 with this Section.

21 (e) The requirements of this Section shall apply to any
22 general use reloadable card sold to a consumer on or after
23 January 1, 2015.

24 (f) In this Section, "card" means a general use reloadable
25 card.

26 Section 99. Effective date. This Act takes effect January

1 1, 2014.